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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-fifth session

SUMMARY RECORD OF THE 594th MEETING

Held at the Vienna International Centre, Vienna,
on Monday, 25 March 1996, at 10 a.m.

Chairman:

Mr. MIKULKA

(Czech Republic)

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CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES (A/AC.105/607 and Corr.1; A/AC.105/C.2/L.182/Rev.3, A/AC.105/C.2/L.197/Rev.1; A/50/20)

1. **The CHAIRMAN** drew attention to the report of the Subcommittee on its thirty-fourth session (A/AC.105/607 and Corr.1), annex II to which contained the report of the Chairman of the Working Group on the relevant agenda item. The working paper submitted by a number of delegations at that session and the working paper submitted by France and Germany, also at the 1995 session, were before the Subcommittee in revised versions as documents A/AC.105/C.2/L.182/Rev.3 and A/AC.105/C.2/L.197/Rev.1 respectively. An informal working paper submitted during that session by the Chairman of the Working Group on the item was contained in the appendix to annex II of the Subcommittee's report.
2. The work of the Legal Subcommittee on outer space benefits had been reviewed by its parent body, the Committee on the Peaceful Uses of Outer Space, at its last session (see document A/50/20, paras. 126-139 and 187 (c)).
3. Finally, in resolution 50/27, the General Assembly had recommended that at its present session the Legal Subcommittee, taking into account the concerns of all countries, particularly those of developing countries, should continue its consideration of the item through the relevant working group.
4. **Mr. FIUZA NETO** (Brazil) said that the working paper sponsored by the delegations of France and Germany, particularly in its revised form (A/AC.105/C.2/L.197/Rev.1), was a major development, since it provided a systematic view of its sponsors' ideas on the issue and opened the door towards a consensus. The revised working paper submitted by his own and 11 other delegations (A/AC.105/C.2/L.182/Rev.3) would, he hoped, demonstrate the sponsors' constructive attitude to the subject. Their main objective was to formulate a text acceptable to all delegations that embodied a flexible approach to the creation of mechanisms designed to reduce dependency and expand knowledge in regard to space activities. The needs of developing countries for space knowledge were more basic than those of the space powers and thus more pressing. In his delegation's view, the item on space benefits was the major issue before the Subcommittee because of its potential for international cooperation.
5. The two revised working papers had been motivated by the consolidated paper based on their predecessors which the Chairman of the Working Group on the item had circulated towards the close of the previous session (A/AC.105/607 and Corr.1, annex II, appendix). He hoped they would provide him with additional elements to facilitate the Group's discussions.
6. **Mr. HECKER** (Germany) said that the French and German delegations, having been encouraged by the constructive reception of their working paper on outer space benefits at the previous session, had now introduced a revised version of it (A/AC.105/C.2/L.197/Rev.1). The document was drafted as a General Assembly resolution in order to take account of the wish of some delegations for a formal document on the subject. Clarifications resulting from delegations' comments had been made in the operative part of the text. In the sponsors' view, the revised paper reflected a constructive approach to the issue of international cooperation in the exploration and use of outer space for the benefit and in the interests of all States, taking

into particular account the needs of developing countries. The sponsors hoped that it would provide common ground for a consensus in the Subcommittee.

7. **Mr. KIM** (United States of America) said that although his delegation appreciated the care which had gone into the preparation of the two revised working papers, it questioned the need for a declaration on the subject they dealt with. Moreover, where would such a text lead the Subcommittee? On the first point, his delegation had yet to be persuaded of the legal or practical necessity for elaborating a new framework for international cooperation; in its view, Member States were already sufficiently guided in that respect by the 1963 Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space and the 1967 Outer Space Treaty. Much mutually beneficial scientific and technological cooperation and exchange took place between States on a multilateral and bilateral basis. For instance, his own Government, one of the leaders in that area, would shortly be hosting the International Conference on Spin-off Benefits of Space Technology at Colorado Springs. It did not see how a new declaration or set of principles on such matters would be helpful and indeed feared that it might create difficult issues that could impede further cooperation.

8. On the second point, his delegation continued to believe that the item under discussion should be a point of departure for the exchange of ideas and information on the legal aspects of space benefits. It did not believe that the Subcommittee or the Working Group on the item should embark upon the negotiation of new instruments addressing policy or programme applications. The Working Group, in choosing topics for discussion, must take into account the need for and purpose of discussing them. His delegation believed that the Subcommittee would benefit from an early and clear understanding of the proposed goals and applications of the working papers before it.

9. **Mr. GONZALEZ** (Chile), referring in particular to the statement made by the United States representative, reminded the Subcommittee that under its terms of reference its task was to establish legal norms, not to philosophize. The third preambular paragraph of General Assembly resolution 50/27 reaffirmed the importance of international cooperation in developing the rule of law, including the relevant norms of space law. Members should bear that in mind as well.

The meeting rose at 10.40 a.m.



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UNITED NATIONS COLLECTION

COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-fifth session

SUMMARY RECORD OF THE 595th MEETING

Held at the Vienna International Centre, Vienna,
on Tuesday, 26 March 1996, at 10 a.m.

Chairman:

Mr. MIKULKA

(Czech Republic)

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CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES (*continued*)

OTHER MATTERS (*continued*)

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The meeting was called to order at 10.20 a.m.

CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES (*continued*) (A/AC.105/607 and Corr.1; A/AC.105/C.2/L.182/Rev.3, A/AC.105/C.2/L.197/Rev.1; A/50/20)

1. **Mr. BARSEGOV** (Russian Federation) said that the reference in the wording of the item to the needs of developing countries was an element not found in any of the outer space treaties currently in force. The position adopted on such matters by the Russian Federation had always been to promote the formulation of principles of international cooperation on the basis of realistic guidelines. The principles drawn up by a group of developing countries had been approached by his delegation in a balanced manner with a view to achieving a compromise decision. The first version had contained a number of variations on themes which had become sacred, concerned with the "redistribution" of the benefits of space activity. The present version (document A/AC.105/C.2/L.182/Rev.3) took into account most of the proposals made by delegations and was on the right lines, as was the working paper submitted by Germany and France (A/AC.105/C.2/L.197/Rev.1). As there was a clear convergence of views in the two texts, his delegation proposed that the Chairman of the Working Group on the item should be asked to continue the practice, adopted at the previous session, of elaborating a consolidated text that would enable the Subcommittee to reach agreement on the subject. In his view a compromise was close. There had to be greater balance and equity before the international outer space market could be democratized; the new and unfinalized partnership between the leading space Powers had its limits, since it was not easy to establish norms of equity for corporate interests. The new set of principles should embody specific mechanisms for coordinating and consolidating activities and also for utilizing the combined potential of the developing countries in outer space.

2. **Ms. VENTURINI** (Italy) said that the peaceful uses of outer space and the development of space technology necessitated improved political, scientific and technical cooperation between industrialized and developing countries. Italy expressed its appreciation of the two working papers before the Subcommittee (A/AC.105/C.2/L.182/Rev.3 and A/AC.105/C.2/L.197/Rev.1) and of the contribution made to the debate by the Chairman of the Working Group with his informal working paper (A/AC.105/607, annex II, appendix). Any discussion of the topics concerned must be realistic. Cooperation in outer space activities increasingly involved not just States but private cooperative ventures among industries and carriers, whence the importance of such cooperation taking place in accordance with the relevant norms of international and domestic law. Both the working papers submitted by delegations took account of that and in many respects were convergent. The adoption of a declaration regarding international cooperation in space activities would strengthen confidence-building in space affairs and improve the existing cooperation. She called upon all delegations to contribute, in a spirit of compromise, to the achievement of a consensus so that the conclusion of the consideration of the item would not be delayed further.

3. **Mrs. ÜNEL** (Turkey) said she was not certain where the problem lay regarding international cooperation in the utilization of outer space, and what legal aspects remained to be resolved that were not covered by the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies. In what context was the agenda item being considered? Was it to develop legal principles that would join the other multilateral instruments on space law, thus contributing to its progressive development, or was it merely to formulate a recommendation by the General Assembly setting out guiding principles? A further question concerned the order of priority of

application of the document being prepared by the Subcommittee, as compared with that of the principles adopted in specific areas such as remote sensing and the use of artificial Earth satellites for direct broadcasting. Her delegation's position on the item depended on the replies given to those questions.

4. Moreover, the 1967 Outer Space Treaty constituted the basic legal framework for the Subcommittee's present and future work and already comprised an obligation for countries active in outer space to cooperate in exchanging information and developing the research activities of all countries. In the light of article I of the Treaty, the embodiment in the working papers of the notion of "developing countries" was inappropriate, because its imprecision would favour developing countries which already possessed considerable capacity in the use of outer space. That would be contrary to the purpose of the Treaty, which in referring to "all countries" contemplated the developing countries as well.

5. **Mr. CELEDÓN** (Chile) said that the session had demonstrated a significant effort on the part of all delegations to narrow their differences. While that was a positive element, the documents before the Subcommittee contained weaknesses that caused his delegation concern. Their basic defect was the lack of an explicit link with key resolutions of the General Assembly, such as resolution 2625 (XXV), containing the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, which should be an obligatory framework of reference for any instrument adopted on the subject of outer space benefits. The Declaration identified seven fundamental principles that constituted *jus cogens*, among them the "duty of States to cooperate". It would be more appropriate for the Subcommittee to adopt a set of principles on the subject — as envisaged in the original version of the developing countries' working paper (A/AC.105/C.2/L.182) — than what was now suggested, otherwise the legal content of the statement would be diluted. Even so, it could give rise to customary practice consistent with the spirit of the subject and its doctrine. That would represent a first partial step towards the progressive development of international space law; the fact that international cooperation was enshrined in a solemn declaration of the United Nations would have the merit of demonstrating the genuine will of all nations to collaborate. Chile greatly valued the flexibility demonstrated by delegations in overcoming the points of disagreement which the subject had provoked and it hoped that the Subcommittee would make substantial progress in space cooperation at the present session on the basis of the two working papers before it (A/AC.105/C.2/L.182/Rev.3 and A/AC.105/C.2/L.197/Rev.1).

6. **Mr. DJELANTIK** (Indonesia) said that the two working papers should be amalgamated as a basis for the Subcommittee's further consideration of the issue of space benefits. Its formulation of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries, should consist of a set of legally binding principles governing international cooperation in those areas, rather than be a mere declaration having only political and moral force. In addition, it should respect the sovereign right of all States to decide the form and level of their participation in that cooperation, and give all States, in particular the developing countries, access to the maximum benefit from advances in the exploration and utilization of outer space for their national development and for the promotion of indigenous capacities for cooperation in the application and development of outer space technology.

7. **Mr. SHIRAI** (Japan) said that the two working papers (A/AC.105/C.2/L.182/Rev.3 and A/AC.105/C.2/L.197/Rev.1) were an appropriate basis for constructive discussion of the issues concerned. His country's fundamental long-term policy on space activities, as revised in January 1996, was that Japan would develop its indigenous technology and utilize the results of its space activities for the promotion of space development internationally; and that international space cooperation must be conducted in a

well-organized and stable manner in order to ensure mutual benefits. In promoting that cooperation, Japan would encourage the joint establishment of Earth observation systems, the installation of observation devices on partners' satellites or space probes, the sharing of experimental scientific equipment and observational data and the creation of an Earth and space science information network. It was also part of the policy that, with a view to implementing effective space activities on a world-wide basis, Japan should operate a large-scale space infrastructure through appropriate forms of international cooperation; that, as a member of the Asia and Pacific region, it should take note of the needs of other countries in the region in regard to Earth observation, telecommunications and space environment utilization; and that it should expand its cooperative activities, among other things through the provision of research opportunities in space and through personnel exchange and technology transfer.

8. Bilateral and multilateral cooperation in the exploration and utilization of outer space should be promoted on the initiative of countries concerned and be based on the needs of individual countries. Interference in their activities should be avoided. In the promotion of international cooperation, the aim must be that all countries involved should benefit from it, and that no heavy burden should be imposed on particular countries. That idea was reflected appropriately in the working paper submitted by Germany and France (A/AC.105/C.2/L.197/Rev.1).

9. **Mr. SINGH** (India) said that cooperation among States was essential in order to provide all States with the opportunity to share in outer space benefits; his delegation believed that, in addition to promoting the participation of all States in outer space programmes, such cooperation should assist them to develop their own space programmes. India had an active programme of cooperation with other countries in space science and technology and its application, and had played an active part in the regional space applications programme for sustainable development, providing training for personnel from other developing countries. Data from Indian remote sensing satellites were furnished to other States on mutually agreed terms.

10. His delegation was gratified that the two working papers before the Subcommittee (A/AC.105/C.2/L.182/Rev.3 and A/AC.105/C.2/L.197/Rev.1) had sought to incorporate views expressed at earlier sessions, thus serving to promote consensus. His delegation hoped that a spirit of cooperation would enable the Subcommittee to recommend a simple unified set of principles to the Committee on the Peaceful Uses of Outer Space for adoption by the General Assembly.

11. **Mr. Ho-Jin LEE** (Republic of Korea) said the basis for international cooperation with regard to space benefits was found in article 1 of the 1967 Outer Space Treaty. However, the principle enshrined in that article was stated in general terms only, and some guidance was needed in its implementation. Although the political environment since the end of the cold war had favoured international cooperation in the utilization of outer space, the level of cooperation remained unsatisfactory; there was a reluctance to share space benefits because of the huge outlay involved. Progress in achieving cooperation would depend on the willingness of States with space capabilities to respond to the needs of developing countries. He hoped a compromise could be achieved between those needs and the interests of the developed countries.

12. The two revised working papers before the Subcommittee (A/AC.105/C.2/L.197/Rev.1 and A/AC.105/C.2/L.182/Rev.3) showed considerable potential for convergence. The co-sponsors of the latter paper, all of them developing countries, had incorporated in their text many of the views held by the developed countries. The need being now for a single text, he suggested that the Chairman of the Working Group on the item should endeavour, together with the sponsors of both working papers, to produce a second composite text as a basis for future discussion. That text should reflect the views expressed at the current

session, both in plenary meetings and in the meetings of the Working Group, and might be divided into chapters entitled, for instance, "General principles of international cooperation", "Modes of international cooperation", "Preservation of the outer space environment" and "Areas of international cooperation". The contentious parts of the Chairman's composite text, such as those dealing with transfer of technology, intellectual property rights and the commercialization of outer space activities, might be left in brackets. In concluding, he urged the Subcommittee to expedite its consideration of the item on space benefits, which had been under discussion since 1988.

OTHER MATTERS (*continued*)

13. **Ms. KATO** (Japan) welcomed the progress made during the session in implementing, to practical effect, the recommendations contained in the report of the Committee on the Peaceful Uses of Outer Space on its thirty-eighth session with regard to the working methods of the Committee and its subsidiary bodies (A/50/20, para. 169). The aim of those recommendations was to rationalize the use of conference resources while achieving maximum output, both by the Committee itself and by its subsidiary bodies. The Legal Subcommittee should recommend to the Committee that it give due consideration to the views expressed in the Subcommittee on the improvement of working methods.

14. Among possible measures, the Subcommittee might hold its plenary meetings simultaneously with those of its working groups. A further point was that its sessions should not be scheduled so that they clashed with those of other intergovernmental bodies meeting at the Vienna International Centre. That had happened during the first week of the present session, when a concurrent meeting of the International Atomic Energy Agency (IAEA) had made it necessary for the Subcommittee to postpone until the second week its consideration of agenda item 5, concerning outer space benefits.

15. The efficiency of the Subcommittee's work would also be enhanced by its decision to use unedited transcripts instead of summary records. At its meeting in June 1996, the Committee on the Peaceful Uses of Outer Space should give careful consideration to those aspects of the working methods of the main committee and its subsidiary bodies. The Subcommittee would recall that at its 1995 session the Committee had specifically recommended that overlapping sessions of intergovernmental bodies at the Vienna International Centre should be avoided.

16. **The CHAIRMAN** said that since the Subcommittee had already decided to abandon summary records, there was no sense in that question receiving further consideration. The scheduling of meetings lay outside the question of the working methods of the Subcommittee, since the calendar of United Nations meetings at the Vienna International Centre was drawn up by the General Assembly. Moreover, the United Nations could not intervene in regard to the calendar of IAEA meetings. As far as holding plenary and working group meetings concurrently was concerned, delegations consisting of only one person would find it difficult to attend both. He asked the Secretariat to explain the financial implications of holding meetings in parallel.

17. **Mr. JASENTULIYANA** (Secretary of the Subcommittee) said that meetings held concurrently would cost twice as much because two sets of interpreters would be required.

18. **Mr. LOUET** (France) said that he sympathized with the views expressed by the representative of Japan, but doubted whether the Subcommittee could do much more on its own to improve its working methods than it had done already. The matter was intimately bound up with the working methods of its parent

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body and of the other subcommittee. He wondered whether it would be feasible for the Committee and its two subcommittees to meet in sequence over a period of several weeks. That would result in savings, impart more flexibility to their work and restore a sense of unity to the Committee and its two subcommittees, which tended at present to operate as separate entities.

19. **Ms. KATO** (Japan) said that the Subcommittee's decision to use unedited transcripts, instead of summary records, as well as the budgetary implications of that step, should be properly reflected in the relevant United Nations documents. That had not been the case with the decision to the same effect taken by the Committee on the Peaceful Uses of Outer Space. It might even be possible to dispense with unedited transcripts if the Subcommittee was able to rely on a comprehensive report of its proceedings, produced by the Secretariat. On the question of simultaneous meetings, she believed the Subcommittee was free to decide, if it so wished, to dispense with interpretation altogether in its working groups.

20. **The CHAIRMAN** observed that the question of summary records was no longer on the Subcommittee's agenda. As to the suggestion that plenary meetings of the Subcommittee might be held in tandem with working group meetings, that would preclude any interaction between the two: in fact, without written records, participants in working group meetings would not even know what had been said in plenary. Nor was it feasible for working groups to meet without interpretation. Every delegation was entitled to hear proceedings in any of the official languages and drafting would become impossible without interpretation.

21. With regard to the suggestion made by the representative of France, it must be borne in mind that the period intervening between the session of the Scientific and Technical Subcommittee and that of the Legal Subcommittee was useful to delegates in preparing for the latter. If both subcommittees met during the same period, a full year would elapse before the results of the work of the Scientific and Technical Subcommittee could be reflected in the work of the Legal Subcommittee. Certainly there might be advantages in organizing sessions that way, but the Subcommittee should bear in mind the concomitant disadvantages.

22. **Mr. SCHEPISI** (Italy) said he believed that the statements by the delegations of France and Japan reflected a general uneasiness about the relationship between the length of sessions and the agenda. It was important to avoid a situation in which the Legal Subcommittee was held up in other bodies as an example of wasteful expenditure. The proposals by the delegate of Japan were intended not only to shorten the duration of sessions but also to make the proceedings more vigorous and better focused. His delegation wished the Subcommittee to convey a message to the Committee on the Peaceful Uses of Outer Space regarding the appropriateness of shorter sessions in line with the practice in other comparable bodies.

23. **The CHAIRMAN** said that the persistent divergence of views in the Subcommittee seemed to preclude the submission of a consensus recommendation to the Committee regarding the duration of the Subcommittee's sessions. The flexible option of tailoring the duration of sessions to the amount of time needed for a full discussion of all agenda items seemed a practical solution that had no adverse financial implications. The existing unwillingness to schedule a two-week session obviously stemmed from a lack of confidence that additional time would subsequently be made available to deal with a more demanding agenda. He reassured the delegate of Italy that all positions on the question of the duration of the Subcommittee's sessions would be reflected in its report to the Committee on the Peaceful Uses of Outer Space, which would take up the matter in the absence of a consensus in the Subcommittee.

24. **Mr. KIM** (United States of America) said that the ultimate aim of all participants in the present debate was to enhance the efficiency and effectiveness of the Subcommittee's work.

25. **Mr. SINGH** (India) said that he fully agreed with the Chairman's comments. He was concerned about the need for some kind of record of the Subcommittee's sessions, bearing in mind that sessional reports did not identify the originators of particular ideas or opinions. Regarding the duration of sessions, his delegation had already expressed support for the flexible option, which involved deciding at the beginning of each session on the amount of time required to deal with the business on the agenda. He asked for clarification of the comment made by the Secretary at the 593rd meeting (A/AC.105/C.2/SR.593, para. 31) to the effect that no savings would be achieved by reducing the session to two weeks.

26. **Mr. JASENTULIYANA** (Secretary of the Subcommittee) said that savings corresponding to a week of conference service costs would in fact be made if the proceedings were concluded at the end of the second week.

27. **Mr. McINTOSH** (Australia) said that there was no universal requirement for written records in United Nations bodies. The practice in some bodies was to make do with a sessional report.

28. **The CHAIRMAN** said that the majority of United Nations bodies had either summary or verbatim records. The Legal Subcommittee was ahead of the field in opting for unedited transcripts. It would be interesting to see how delegations reacted to unpolished transcripts of their statements. They might feel that no record at all was preferable. On the other hand, when the time came to draft important instruments of space law, the Subcommittee might decide that summary records were necessary to ensure that its proceedings were properly reflected.

29. **Mr. FIUZA NETO** (Brazil) said that his delegation would agree to a shortening of the duration of sessions only on an ad hoc basis. The Subcommittee should continue to reflect on the matter in the light of a thorough examination of the possibility of new agenda items.

30. **Mr. Ho-Jin LEE** (Republic of Korea) asked whether the Subcommittee itself was competent to take a decision regarding the duration of its sessions. If so, his delegation proposed that such a decision should be taken under the present item.

31. **The CHAIRMAN** said that the Subcommittee was not competent to decide itself on the duration of its sessions. Any recommendation on the matter to the Committee on the Peaceful Uses of Outer Space would, of course, be welcome, but in the absence of a consensus the only possible procedure was that the Subcommittee's report should reflect the two positions expressed in the discussion. On the other hand, even if the General Assembly, on the Committee's recommendation, decided in favour of a three-week session, the Subcommittee was under no obligation to utilize the full three weeks.

32. **Mr. CELEDÓN** (Chile) said that it was important for the Subcommittee to determine what new items should be included in the agenda to replace items about to be removed or items held in suspense.

33. **Mr. ARRIAGA** (Mexico) said his delegation believed that any shortening of the session might be detrimental to a full discussion of existing agenda items or to the inclusion of new items. It therefore preferred to maintain the existing arrangements, which were based on the principle of flexibility.

34. **Mr. LOUET** (France) suggested that the Subcommittee might recommend to the Committee that any decision on the duration of the session should depend on the content of the Subcommittee's agenda, which should have become clear by the time the Committee met for its June 1996 session.

35. The **CHAIRMAN** suggested that delegations should use the time remaining before the next session of the Committee to reflect further on the question of the duration of the Subcommittee's sessions and possible new agenda items, with a view to reaching a consensus on the matter.

36. *It was so decided.*

The meeting rose at 12.10 p.m.



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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-fifth session

SUMMARY RECORD OF THE 596th MEETING

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on Wednesday, 27 March 1996, at 10 a.m.

Chairman:

Mr. MIKULKA

(Czech Republic)

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Distr.: 30 April 1996

The meeting was called to order at 10.30 a.m.

CONSIDERATION OF THE LEGAL ASPECTS RELATED TO THE APPLICATION OF THE PRINCIPLE THAT THE EXPLORATION AND UTILIZATION OF OUTER SPACE SHOULD BE CARRIED OUT FOR THE BENEFIT AND IN THE INTERESTS OF ALL STATES, TAKING INTO PARTICULAR ACCOUNT THE NEEDS OF DEVELOPING COUNTRIES (*continued*) (A/AC.105/607 and Corr.1; A/AC.105/C.2/L.182/Rev.3, A/AC.105/C.2/L.197/Rev.1; A/50/20)

1. **Mr. NOVOSELOV** (Ukraine) commented on the two working papers before the Subcommittee, both of them drafted as a General Assembly resolution with an attached declaration: the paper sponsored by 12 developing countries (A/AC.105/C.2/L.182/Rev.3) and the document produced by Germany and France (A/AC.105/C.2/L.197/Rev.1). During the current session it had proved possible to reduce the gap between the positions of Member States on the subject. He commended the ideas contained in both working papers. However, it was important to develop a single agreed text of a resolution with a declaration attached.
2. With that in mind, he suggested that the text in the 12-country draft should be used as the basis for the resolution, since it contained a reference to the relevant international legal norms. However, it was unnecessary to link the adoption of the declaration to the report of the Committee, since that report would reflect all aspects of international cooperation in the peaceful uses of outer space, not merely the question of space benefits. That being so, he suggested that the composite draft resolution should incorporate the third and fourth preambular paragraphs of the resolution in the Franco-German working paper.
3. As to the declaration, he preferred the latter text, in part because of its emphasis on the concept of equity. However, he would prefer to delete the reference, in section III, paragraph 1, to the provisions of international law. There was sufficient reference to those provisions in section I, paragraph 1. Moreover, the two-country text failed to mention the need to preserve the space environment, referred to in paragraph 7 of the 12-country draft. In the latter text, paragraph 6 contained a better definition of the manner in which international cooperation should be conducted. He therefore suggested that the text of that paragraph should replace the first sentence of section II, paragraph 1, of the Franco-German paper, but that its second sentence should be retained. Section III of the Franco-German draft, entitled "Areas of cooperation", contained a list of activities involving the exploration and peaceful uses of outer space. Although there was no need for an exhaustive list, a reference might be added in subparagraph (a) to disasters of technological origin. Paragraph 3 of section III should be redrafted, since as it stood it could be interpreted as meaning that the fundamental task of the Committee on the Peaceful Uses of Outer Space was to serve as a forum for the exchange of information. Finally, in order to improve the structure of the consolidated text, he suggested the introduction of a reference to the objectives of international cooperation, so as to reflect the proposals contained in paragraph 5 of the 12-country draft.

The meeting rose at 10.50 a.m.



General Assembly

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-fifth session

SUMMARY RECORD OF THE 597th MEETING

Held at the Vienna International Centre, Vienna,
on Thursday, 28 March 1996, at 10 a.m.

Chairman:

Mr. MIKULKA

(Czech Republic)

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Distr.: 30 April 1996

The meeting was called to order at 10.50 a.m.

RESULTS OF INFORMAL CONSULTATIONS ON NEW ITEMS FOR THE AGENDA

1. **The CHAIRMAN** said that, in accordance with the recommendation of the Subcommittee contained in paragraph 54 of the report on its thirty-fourth session (A/AC.105/607 and Corr.1), he had conducted open-ended informal consultations with all members of the Subcommittee with a view to identifying, on the basis of consensus, a subject or list of subjects that might be considered, in the future, for inclusion in its agenda. During the consultations the following items proposed by some delegations in 1995 for possible inclusion in the agenda of the Subcommittee at its future sessions had been discussed: the status of the five outer space treaties; commercial aspects of space activities, for example, property rights, insurance and liability; a review of existing norms of international law applicable to space debris; legal aspects of space debris; and a comparative review of the principles of international space law and international environmental law.

2. The following ideas concerning the agenda of the Subcommittee, contained in the annex to the 1994 report of the Committee on the Peaceful Uses of Outer Space (A/49/20), had also been discussed: the possibility of establishing, through consensus, a working agenda comprising items upon which substantive progress was possible, and the possibility of separating the issue on definition and delimitation of outer space from the issue of the character and utilization of the geostationary orbit.

3. As a result of the discussion, he had felt that consensus was not possible concerning those two ideas and that further discussion of them was unnecessary. With regard to some of the proposals, the delegations of Mexico, the Czech Republic and Chile had submitted informal background notes explaining their proposals, as recommended at the 1995 session of the Subcommittee (A/AC.105/607 and Corr.1, para. 55). With regard to the proposal to include in the agenda of the Subcommittee an item entitled "Legal aspects of space debris", it had been felt that the inclusion in the agenda of an item envisaging elaboration of legislative norms or principles concerning space debris could take place only after sufficient progress had been made in the consideration of that subject in the Scientific and Technical Subcommittee. Although the proposal for a review of existing norms of international law applicable to space debris had been discussed extensively, no conclusion had been reached on the matter.

4. **Mr. SINGH** (India) welcomed the proposal, made by the Czech Republic, for an item to be placed on the agenda entitled "Review of existing norms of international law applicable to space debris". He called on delegations to support, or at least not to oppose, that proposal, as well as the proposals regarding the inclusion in the agenda of items entitled "Review of the five international legal instruments on outer space" and "Comparison of the norms of space law and those of international environmental law", suggested by Mexico and Chile respectively.

5. **Mrs. BATACLAN** (Philippines) associated herself with the statement made by the representative of India.

6. **Mr. McINTOSH** (Australia) said that the proposal made by the delegation of the Czech Republic would be open for discussion at the session of the Committee on the Peaceful Uses of Outer Space to be held in June 1996. He believed it possible that a consensus might be reached at that session regarding the inclusion of the item on the agenda of the Subcommittee.

7. **Mr. GONZALEZ** (Chile) expressed his satisfaction with the results of the informal consultations. He requested that the informal notes on their proposals submitted by his own delegation and those of the Czech Republic and Mexico should be reproduced in an annex to the report of the Subcommittee.

8. **The CHAIRMAN** said that the notes had been circulated in the framework of informal consultations. The notes themselves were therefore informal and could be annexed to the Subcommittee's report only if the delegations circulating them made a formal request to that effect.

9. **Mr. GONZALEZ** (Chile) requested that the unofficial background note submitted by his delegation regarding an item entitled "Comparison of the norms of space law and those of international environmental law" be reproduced in an annex to the report of the Subcommittee. It would then constitute a framework of reference for future discussion of the matter.

10. **Mr. FIUZA NETO** (Brazil) associated himself with the views expressed by the representative of India. He commended in particular the Czech proposal and said that informal consultations on new items for the agenda should take place at future sessions of the Subcommittee as well.

11. **Mr. ARRIAGA WEISS** (Mexico) requested that the informal note submitted by his delegation regarding a review of the status of the five international legal instruments relating to activities in outer space should likewise be reproduced in an annex to the Subcommittee's report.

12. **Mr. MELGAR** (Uruguay) said that the proposals made by the delegations of Chile, the Czech Republic and Mexico would benefit the work of the Subcommittee. He endorsed the views expressed by the representatives of India and Brazil.

13. **Mr. KOPAL** (Czech Republic) asked that the unofficial background note circulated by his delegation with regard to a review of existing norms of international law applicable to space debris should also be reproduced in an annex to the Subcommittee's report. He stressed that such notes were informal and should be considered as such when it came to their possible further development.

14. **The CHAIRMAN** said that, unless he heard any objection, he would take it that the Subcommittee accepted the requests made by the delegations of Chile, Mexico and the Czech Republic.

15. *It was so agreed.*

ADOPTION OF THE REPORT OF THE SUBCOMMITTEE (A/AC.105/C.2/L.201 and Add.1 and 2; A/AC.105/C.2/1996/CRP.8)

16. **The CHAIRMAN** said that the blanks in the draft report relating to factual details would be completed by the Secretariat.

A/AC.105/C.2/L.201

Paragraphs 1 to 3

17. *Paragraphs 1 to 3 were adopted.*

Paragraph 4

18. **The CHAIRMAN** said that the name of Venezuela should be included before that of Viet Nam.

19. *Paragraph 4, as amended, was adopted.*

Paragraphs 5 to 8

20. *Paragraphs 5 to 8 were adopted.*

Paragraph 9

21. **Mr. KIM** (United States of America) suggested that a comma be inserted between the names of the United Kingdom and the United States.

22. *Paragraph 9, as amended, was adopted.*

Paragraphs 10 and 11

23. *Paragraphs 10 and 11 were adopted.*

Paragraph 12

24. **The CHAIRMAN** suggested that, in order to take account of the Subcommittee's current practice, paragraph 12 (g) should be amended to read: "The Subcommittee and/or working group meetings could be cancelled on an ad hoc basis if informal consultations were required, instead of planned cancellations of blocks of meetings, which had been employed in the past;"

25. *It was so decided.*

26. *Paragraph 12, as amended, was adopted.*

Paragraphs 13 to 15

27. *Paragraphs 13 to 15 were adopted.*

Paragraph 16

28. **Mr. KIM** (United States of America) proposed the inclusion of the word "appropriately" after the word "issue" in the last sentence.

29. *The proposal was approved.*

30. *Paragraph 16, as amended, was adopted.*

Paragraphs 17 to 30

31. *Paragraphs 17 to 30 were adopted.*

Paragraph 31

32. **Mr. ZVEDRE** (Russian Federation) proposed that paragraph 31, which was unnecessary, should be deleted.

33. *It was so decided.*

Paragraphs 32 to 36

34. *Paragraphs 32 to 36 were adopted.*

A/AC.105/C.2/L.201/Add.1

Paragraphs 1 to 5

35. *Paragraphs 1 to 5 were adopted.*

A/AC.105/C.2/1996/CRP.8

Paragraph 5 bis

36. *Paragraph 5 bis was adopted.*

A/AC.105/C.2/L.201/Add.1 *(continued)*

Paragraphs 6 to 8

37. *Paragraphs 6 to 8 were adopted.*

38. **Ms. KATO** (Japan) proposed the addition of the following new paragraph 8 bis:

“The view was expressed that once the above-mentioned recommendation was approved by the Committee on the Peaceful Uses of Outer Space and the General Assembly, it should be reflected appropriately in the relevant section of the United Nations budget.”

39. In response to a question from **Mr. FIUZA NETO** (Brazil), **Mr. JASENTULIYANA** (Secretary of the Subcommittee) said that the United Nations budget for the current biennium contained a single appropriation for the servicing of meetings of all United Nations bodies, wherever they were held. Accordingly, any saving made in servicing the meetings of the Subcommittee, as calculated at the end of the biennium, would be regarded as available for other purposes and not necessarily for the meetings of the Subcommittee itself.

40. *The Japanese proposal was approved.*

41. *Paragraph 8 bis was adopted.*

Paragraphs 9 to 14

42. *Paragraphs 9 to 14 were adopted.*

A/AC.105/C.2/L.201/Add.2

Paragraph 1

43. *Paragraph 1 was adopted.*

Paragraph 2

44. **Mr. GONZALEZ** (Chile) proposed the inclusion, in regard to subparagraph 2 (e), of the view expressed by his delegation in the discussion of the item that the Secretariat should carry out a comparative study of both the branches of law mentioned in that subparagraph. That view had been supported and it had not been opposed.

45. **The CHAIRMAN** said that the point might be covered better by adding a new paragraph at the end of the section.

46. **Mr. GONZALEZ** (Chile) accepted that suggestion.

47. *Paragraph 2 was adopted.*

Paragraph 3

48. **Mr. CURIA** (Argentina) requested the Secretariat to find a more accurate translation into Spanish of the term "working agenda", in subparagraph (a), than the words "*programa de trabajo práctico*".

49. *Paragraph 3 was adopted on that understanding.*

Paragraph 3 bis

50. **The CHAIRMAN** said that the following paragraph, omitted unintentionally from the text of document A/AC.105/C.2/L.201/Add.2, should be inserted in it as paragraph 3 bis:

"With regard to the proposal in paragraph 2 (d) above, it was agreed that the inclusion in the Subcommittee's agenda of an item envisaging elaboration of any legislative norms or principles concerning space debris would take place only after sufficient progress was attained in the consideration of this subject in the Scientific and Technical Subcommittee."

51. **Mr. KOPAL** (Czech Republic) suggested that a decision on paragraph 3 *bis* be deferred to a later stage, following the consideration of paragraphs 4 to 6, since he wished to propose a related additional paragraph.

52. *It was so agreed.*

Paragraph 4

53. **The CHAIRMAN** said that the word "thirty-ninth" should be corrected to read "thirty-fourth". In addition, following the agreement earlier in the meeting to annex the informal background notes to which the paragraph referred, the words "(see annex ...)" should be added at the end of the paragraph.

54. *It was so decided.*

55. *Paragraph 4, as amended, was adopted.*

Paragraph 5

56. **Mr. CURIA** (Argentina) suggested that the paragraph should read: "The proposal (c) in paragraph 2 was extensively discussed."

57. **The CHAIRMAN** pointed out that the paragraph reflected correctly the content of the informal discussions which had taken place.

58. *Paragraph 5 was adopted.*

Paragraph 6

59. *Paragraph 6 was adopted.*

60. **Mr. KOPAL** (Czech Republic) said that, although the Subcommittee had reached no consensus on his delegation's proposal that it should review existing norms of international law applicable to space debris, he felt that the report should reflect the exchange of views that had taken place on the subject. He therefore proposed the insertion of the following paragraph as paragraph 7:

"In connection with the Chairman's summation, some delegations expressed the view that the prevailing feeling at the consultations was that the Subcommittee could be able to recommend that the Committee on the Peaceful Uses of Outer Space, at its next session in 1996, should consider whether it would be appropriate for the Legal Subcommittee to commence, in 1997, a review of existing norms of international space law applicable to space debris. They emphasized that the consideration of the proposed item was not intended to lead to the drafting of new provisions but should serve to clarify the issues involved and help to improve the interpretation and application of the existing norms of international space law. In the view of those delegations, such a review could be successfully carried out without an input from the Scientific and Technical Subcommittee and, moreover, the results of such a review might assist the Scientific and Technical Subcommittee in its work on the subject of space debris."

If that paragraph was acceptable to the Subcommittee, he could agree to the inclusion of the proposed paragraph 3 *bis* as paragraph 8, on condition that the phrase "any legislative norms or principles" was amended to read "any legal norms or principles".

61. **Mr. FIUZA NETO** (Brazil) supported the inclusion of the paragraph 7 proposed by the delegation of the Czech Republic.

62. **Mr. KIM** (United States of America) said his delegation had serious objections to the proposal made by the delegation of the Czech Republic, which had been introduced at an inappropriate juncture. His delegation did not agree that there had been a "prevailing feeling" at the consultations in favour of the recommendation to the Committee on the Peaceful Uses of Outer Space to which the proposed paragraph referred. If a paragraph along those lines was inserted, the following additional paragraph should be inserted as well, in order to reflect the divergence of views on the matter discernible in both the formal and the informal meetings of the Subcommittee:

"Other delegations did not endorse the proposal in paragraph 2 (d) nor did they support the view that there was any prevailing feeling of support for that proposal. Those delegations explained that it was not appropriate to discuss the issue of space debris in the Legal Subcommittee or to develop recommendations that could underpin new legal norms or principles for space debris in view of the many technical and scientific issues that remained to be discussed. An adequate discussion of the scientific and technical research in the field must take place and an adequate base of knowledge must be established before the Legal Subcommittee could consider whether any new legal norms should be developed."

63. **The CHAIRMAN** observed that the purpose of the informal consultations had been precisely to avoid the need to reflect divergent views in the report and to preserve a constructive atmosphere for future discussions. The decision that individual delegations' informal background notes should be annexed to the report had already defeated that purpose somewhat.

64. **Mr. KIM** (United States of America) agreed that it would be preferable for the views of particular delegations to be omitted from the report altogether.

65. **Mrs. BATACLAN** (Philippines) said that she supported the proposal made by the delegation of the Czech Republic and had no objection to the views of other delegations being reflected in the report. She asked whether a consensus existed on the inclusion of the related paragraph 3 *bis*.

66. **The CHAIRMAN** asked the Czech representative whether he maintained his proposal.

67. **Mr. KOPAL** (Czech Republic) said that although his delegation was willing to compromise on the matter, it felt that its proposed new paragraph, in stating the position of its own and other delegations, reflected what had actually taken place at the present session.

68. **The CHAIRMAN** suggested that the proceedings should be suspended briefly for informal discussions among delegations with regard to the Czech and United States proposals and the action to be taken with regard to the related paragraph 3 *bis*.

69. *It was so decided.*

The meeting was suspended at 12.35 p.m. and resumed at 12.45 p.m.

70. **The CHAIRMAN**, reporting on the outcome of the informal discussions, said that the Czech and United States delegations had agreed to withdraw their proposals, and that it had been agreed that the proposed paragraph 3 *bis* should not be included in the report. He invited the Subcommittee to approve that course of action as a package of interrelated decisions.

71. *It was so decided.*

72. **Mr. GONZALEZ** (Chile) proposed the inclusion of a new paragraph following paragraph 6, to read:

“Bearing in mind the request made by the delegation of Chile, when presenting its proposal for new agenda items, that the Secretariat should carry out a comparative study of the norms of space law and of environmental law, and the favourable view expressed by some delegations regarding that proposal, it was suggested that the Office for Outer Space Affairs consider the possibility of carrying out such a study.”

He pointed out that no opposition to that idea had been expressed during the informal consultations.

73. **Mr. KIM** (United States of America) said that if a statement of that nature, reflecting the views of certain delegations, was included in the report, it would only be fair to reflect the views of delegations which took a different view.

74. **The CHAIRMAN** said that, since the idea of the proposed study had not previously been mooted in the Subcommittee officially, he questioned the appropriateness of presenting it as something on which the Subcommittee had expressed a view.

75. **Mr. de YTURRIAGA** (Spain) said he felt the Chilean text was premature. Unless a decision had been taken to include the item concerned in the Subcommittee's agenda, the Office for Outer Space Affairs could not be asked to study the subject.

76. **Mr. KIM** (United States of America) and **Mr. LOUET** (France) agreed.

77. **Mr. GONZALEZ** (Chile) said the proposed study would not pre-judge a decision as to whether the item itself was to be included in the agenda. His proposed text reflected the view of a number of delegations, although he was aware that others took a different view. In a spirit of flexibility, he would amend his proposed text to read: “Some delegations expressed the view that it would be appropriate for the Office for Outer Space Affairs to carry out a comparative study of the norms of international space law and international environmental law”.

78. **Mr. KIM** (United States of America) called for the inclusion of a statement to the effect that there had been dissenting views. He suggested the addition of the following wording to the text just read out by Chile: “Other delegations rejected the proposal, explaining that it was premature and out of order for the Subcommittee to request the Office for Outer Space Affairs to carry out a comparative study even before the Subcommittee had fully considered and reached a decision on whether this proposal would be included as a new agenda item.”.

79. **Mr. de YTURRIAGA** (Spain) said that it would be best not to include any statement along the lines proposed by the representative of Chile, but if that was done, the fact that some delegations believed the proposal for a study to be premature must be mentioned as well.

80. **The CHAIRMAN** said it would be regrettable if, with the inclusion of the Chilean text and the response to it by the United States, the report ended on a note of discord. Much of the discussion which had taken place in the informal consultations could not be reflected in the report and, moreover, the point now under consideration had occupied only a small proportion of the Subcommittee's time. In any case, even if the proposed statement appeared in the report it would have no practical effect, since the Secretariat could not proceed with the study in question without a clear mandate from the Subcommittee. He asked the representative of Chile to reconsider his proposal in that light.

81. **Mr. GONZALEZ** (Chile) said that his proposal had been intended to express confidence in the Secretariat, while promoting the progressive development of international space law. There were evidently two schools of thought in the Subcommittee on the question of new items for its agenda; some were in favour of progress, others were not. Nevertheless, in a spirit of cooperation, he withdrew his proposal.

82. **Mrs. BATACLAN** (Philippines) said that she herself had not heard any objection to the idea of the proposed study. She felt that, in future, informal consultations should be treated as the main forum for the expression of views on the matters dealt with by the Subcommittee.

83. **Mr. KIM** (United States of America) said he wished it to be clear that his delegation did not oppose progress in the Subcommittee's programme of work. Its concern was that resources should be used in an appropriate and efficient manner.

84. *The report of the Subcommittee as a whole, as amended, was adopted.*

CLOSURE OF THE SESSION

85. After an exchange of courtesies, the Chairman declared the session closed.

The meeting rose at 1.15 p.m.